

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

THOMAS K. MILLS,

Plaintiff,

v.

ZACHERY JONES, et al.

Defendants.

No. 1:23-cv-01214-JLT-SAB (PC)

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DISMISSAL OF CLAIM

(ECF Nos. 12, 13, 14)

Plaintiff is proceeding pro se and in forma pauperis in this action filed pursuant to 42 U.S.C. § 1983.

On October 25, 2023, the Court screened Plaintiff's complaint, and found that he stated cognizable a cognizable excessive force claim against Defendants Zachery Jones and Javier Rivera. (ECF No. 12.) However, Plaintiff failed to state any other cognizable claims. Plaintiff was granted the opportunity to file an amended complaint or notify the Court of his intent to proceed on the claims found to be cognizable. (*Id.*) On November 3, 2023, Plaintiff filed a notice of intent to proceed on the claims found to be cognizable. (ECF Nos. 13, 14.)

Accordingly, it is HEREBY RECOMMENDED that:

1. This action proceed against Defendants Zachery Jones and Javier Rivera for excessive force in violation of the Eighth Amendment; and
2. All other claims be dismissed from the action for failure to state a cognizable

claim for relief.

These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14) days** after being served with these Findings and Recommendations, Plaintiff may file written objections with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: **November 6, 2023**

A handwritten signature in blue ink, appearing to read "J. A. Be", is written over a horizontal line.

UNITED STATES MAGISTRATE JUDGE